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8 Attorneys for Defendant and Third Party Plaintiff
9 Stark Investment Company, a
10 California general partnership

11
12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15
16 SAN FRANCISCO DIVISION
17

18 PALMTREE ACQUISITION
19 CORPORATION, a Delaware corporation,

20 Plaintiff,

21 vs.

22 MICHAEL R. NEELY, an individual;
23 PERRY J. NEELY, an individual; GARY
24 NEELY, an individual; MICHAEL R.
25 NEELY, PERRY J. NEELY and GARY
26 NEELY dba MIKE'S ONE HOUR
27 CLEANERS; CHARLES FREDERICK
28 HARTZ dba PAUL'S SPARKLE
CLEANERS; CHARLES F. HARTZ, an
individual; MULTIMATIC
CORPORATION, a New Jersey
corporation; WESTERN STATES
DESIGN, a California corporation;
MCCORDUCK PROPERTIES
LIVERMORE, LLC, a Delaware limited
liability company individually and as the
successor to JOHN MCCORMICK,
KATHLEEN MCCORDUCK, PAMELA
MCCORDUCK, SANDRA
MCCORDUCK MARONA, and IMA
FINANCIAL CORPORATION, a
California corporation; STARK
INVESTMENT COMPANY, a California
general partnership; GRUBB & ELLIS
REALTY INCOME TRUST,
LIQUIDATING TRUST, a California trust;

Case No. CV 08 3168 MHP

**~~[PROPOSED ORDER]~~ TO FILE FIRST
AMENDED THIRD PARTY COMPLAINT
[FRCP 15(a) & 21]**

Hon. Marilyn H. Patel

and DOES 1-20, inclusive,
Defendants.

THE KIRRBURG CORPORATION,
formerly known as MULTIMATIC
CORPORATION, a New Jersey
Corporation; and STARK INVESTMENT
COMPANY, L.P., a California limited
partnership,

Third-Party Plaintiffs,

v.

MELINDA ELLIS EVERS, Successor
Trustee of the Harold A. Ellis, Jr.
Revocable Inter Vivos Trust Dated July 13,
2000; JAMES R. PROUD, an individual;
DEAN BANKS, an individual; EMMETT
R. DEMOSS JR., an individual; JOHN E.
HYJER, an individual; THE ANDERSON
MARITAL TRUST dated February 28,
1979, as amended and restated August 31,
1994; and THE ANDERSON TAX
DEFERRAL TRUST, dated February 28,
1979, as amended and restated August 31,
1994,

Third-Party Defendants.

WHEREAS Third Party Plaintiffs, The Kirrberg Corporation and Stark Investment
Company, L.P. desire to file a First Amended Third Party Complaint;

WHEREAS, Defendant Estate of Harold A. Ellis, Jr. is the only party that has
appeared and does not oppose the filing of the First Amended Third Party Complaint;

THEREFORE, IT IS HEREBY STIPULATED by and between the attorneys for
Third Party Plaintiffs and for Third Party Defendant Estate of Harold A. Ellis, Jr. that Third Party
Plaintiffs be granted leave to file a First Amended Third Party Complaint, a copy of which is
attached, on or before May 24, 2010.

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1 APPROVED AS TO FORM AND CONTENT:

2 Dated: May 24, 2010

DONGELL LAWRENCE FINNEY LLP

3
4 By: /s/ Thomas F. Vandenburg

5 Thomas F. Vandenburg
6 Attorneys for Defendant and Third-Party Plaintiff
7 THE KIRBERG CORPORATION, formerly
known as MULTIMATIC CORPORATION, a New
Jersey corporation

8 Dated: May 24, 2010

GONSALVES & KOZACHENKO

9
10 By: /s/ Selena P. Ontiveros

11 Selena P. Ontiveros
12 Attorneys for Defendant and Third-Party Plaintiff
13 Start Investment Company, a California general
partnership

14 Dated: May 24, 2010

STEIN & LUBIN LLP

15
16 By: /s/ Jonathan E. Sommer

17 Jonathan E. Sommer
18 Attorneys for Defendant
Estate of Harold A. Ellis, Jr.

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20
21 **IT IS SO ORDERED.**

22
23 Dated: 5/25/2010



1 **Re: Palmtree Acquisition v. Michael R. Neely, et al.**
2 **United States District Court, Case No. CV 08-3168 MHP**

3 **PROOF OF SERVICE—ELECTRONIC TRANSMISSION**

4 STATE OF CALIFORNIA/COUNTY OF LOS ANGELES

5 I am a citizen of the United States and am employed in the County of Los Angeles,
6 State of California. I am over the age of 18 and not a party to the within action; my business
7 address is DONGELL LAWRENCE FINNEY LLP, 707 Wilshire Boulevard, 45th Floor, Los
8 Angeles, CA 90017-3609.

9 On the date set forth below, I electronically served the document described below
10 via the United States District Court-Northern District's ECF, on the recipients designated on the
11 Transaction Receipt located on the Court's website.

12 **[PROPOSED ORDER] TO FILE FIRST AMENDED THIRD PARTY COMPLAINT**
13 **[FRCP 15(a) & 21]**

14 On the following parties:

15 SEE SERVICE LIST PROVIDED BY THE COURT'S ECF WEBSITE

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct and that I am employed in the office of a member of the bar of this
18 court, at whose direction the service was made.

19 Executed on May 24, 2010, at Los Angeles, California.

20 /s/ Sheryl R. Douglas
21 Sheryl R. Douglas
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